**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.**

Writ Petition No. 122 (M/B) of 2006

Smt. Bala Devi, wife of late Sri Dinesh Chandra Kundliya, resident of Bhadoli, P.S. – Satpuli, District – Pauri Garhwal, presently residing at P – 3, servant quarter, IMA, Dehradun, P.S. – Cantt., Dehradun District – Dehradun.

…….Petitioner

V e r s u s

1. State of Uttaranchal through Home Secretary, Uttaranchal, Dehradun.
2. S.O., P.S. – Cantt., Dehradun, District – Dehradun.
3. Col. Sri S. K. Khajuria, IMA, Dehradun, P.S. – Cantt., Dehradun, District – Dehradun

…….Respondents

Sri A.K. Gautam, learned counsel for the petitioner
Learned Government Advocate for respondent nos. 1 and 2.

**Coram:**
**Hon'ble M.M. Ghildiyal, J.**
**Hon'ble B. C. Kandpal, J.**

**Oral Judgment (Per Hon'ble B.C. Kandpal, J)**

Heard learned counsel for the parties and perused the record. By way of this writ petition, the petitioner has prayed to issue a writ in the nature of Certiorari quashing the impugned FIR dated 04.01.2006 under section 302 IPC in case crime no. 05 of 2006 at P.S. – Cantt., Dehradun.

Learned counsel for the petitioner has argued that no motive has been attributed to the petitioner and there is no reason as to why the petitioner would murder her husband, who is the sole bread earner of the family. He has also submitted that there is no prima facie case against the petitioner at this stage.

Record shows that the case was subsequently altered to Section 304 IPC.

Having perused the evidence advanced by learned counsel for the parties, we are of the view that this writ petition is devoid of any force.

The petitioner was in the company of her deceased (husband), in a room in the night and on next morning the deceased was found dead. The post mortem report shows that there was ligature mark on the neck and the doctor opined that the death took place on account of asphyxia due to strangulation.

We are not supposed to hold the inquiry with regard to the reliability of the evidence especially where evidence are still hazy and incomplete. At this stage, we do not find any force in the writ petition and the same is dismissed.

However, in case, if the petitioner appears before court below for seeking bail, the court below shall decide the bail application expeditiously.

With the aforesaid observation, the writ petition is finally disposed of.

**(B.C. Kandpal, J.)** **(M.M. Ghildiyal, J)**

February 08, 2006
SKSharma